



## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Medicare & Medicaid Services**

**[Document Identifier: CMS-10455 and CMS-10379]**

#### **Agency Information Collection Activities: Submission for OMB Review; Comment Request**

**AGENCY:** Centers for Medicare & Medicaid Services, HHS

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments on the collection(s) of information must be received by the OMB desk officer by **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions:

OMB, Office of Information and Regulatory Affairs

Attention: CMS Desk Officer

Fax Number: (202) 395-5806 OR

E-mail: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov)

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web Site address at Web Site address at

[https://www.cms.gov/Regulations-and-](https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html)

[Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html](https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html)

1. E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov).

2. Call the Reports Clearance Office at (410) 786-1326.

**FOR FURTHER INFORMATION CONTACT:** William Parham at (410) 786-4669.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes

agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Report of a Hospital Death Associated with Restraint or Seclusion; *Use:* The final rule, which finalized the regulations at 42 CFR §482.13(g), published on May, 16, 2012 (77 FR 29074) included a reduction in the reporting requirements related to hospital deaths associated with the use of restraint or seclusion. Section §482.13(g) requires that hospitals must use form CMS-10455 to report those deaths associated with restraint and/or seclusion directly to the Centers for Medicare & Medicaid Services (CMS) Regional Office (RO). In addition, the final rule replaced the previous requirement for reporting via telephone to CMS, which proved to be cumbersome for both CMS and hospitals, with a requirement that allows the submission of reports on the form CMS-10455 via facsimile or electronically, as determined by CMS. This reporting requirement applies to hospitals, Critical Access Hospitals (CAHs) and rehabilitation or psychiatric distinct part units (DPUs) in hospitals and CAHs. Currently, the hospital, CAH, or rehabilitation or psychiatric DPU must submit the form CMS-10455 to the CMS RO via fax or e-mail, based on RO's preference. Beginning on

May 9, 2014, hospitals were no longer required to report to CMS, those deaths that were not associated with the use of seclusion and where the only restraints used were 2-point soft wrist restraints. This reporting requirement change resulted in no necessary edits to the form CMS-10455. However, despite the change in reporting requirements, hospitals and CAHs continued to submit unnecessary CMS-10455 forms when there was only use of 2-point soft wrist restraints without the use of seclusion. Therefore, form CMS-10455 was modified in July 2018 to include instructions stating that the submission of this form is not required for deaths associated with the use of only 2-point soft wrist restraints without seclusion. It was estimated that this change would reduce the volume of reports to be submitted by 90 percent for hospitals.

In this information collection request, CMS is seeking OMB approval for an electronically submitted version of the currently approved paper version of form CMS-10455. *Form Number:* CMS-10455 (OMB control number: 0938-1210); *Frequency:* Occasionally; *Affected Public:* Private Sector; *Number of Respondents:* 6,389; *Number of Responses:* 6,389; *Total Annual Hours:* 6,389. (For policy questions regarding this collection contact Caroline Gallaher at 410-786-8705.)

2. *Type of Information Collection Request:* Revision of a previously approved information collection; *Title of Information Collection:* Rate Increase Disclosure and Review Requirements (45 CFR Part 154); *Use:* 45 CFR Part 154 implements the annual review of unreasonable increases in premiums for health insurance coverage called for by section 2794. The regulation established a rate review program to ensure that all rate increases that meet or exceed an established threshold are reviewed by a state or the Centers for Medicare and

Medicaid Services (CMS) to determine whether the rate increases are unreasonable.

Accordingly, issuers offering non-grandfathered health insurance coverage in the individual and/or small group markets are required to submit Rate Filing Justifications to CMS. Section 154.103(b) exempts grandfathered health plan coverage as defined in 45 CFR §147.140 and excepted benefits as described in section 2791(c) of the PHS Act. In the Notice of Benefit and Payment Parameters for 2019 (2019 Payment Notice) (83 FR 74, April 17, 2018), Section 154.103 was modified so that student health insurance coverage, as defined in §147.145, is also exempted from Federal rate review requirements for plans beginning on or after July 1, 2018.

Section 154.200(a)(1) previously provided that a rate increase for single risk pool coverage beginning on or after January 1, 2017 was subject to a reasonableness review if: (1) the average increase, including premium rating factors described in §147.102, for all enrollees, weighted by premium volume for any plan within the product, meets or exceeds 10 percent; or (2) the increase exceeds a state-specific threshold approved by the Secretary. In the 2019 Payment Notice, this provision was amended to establish a 15 percent federal default threshold for reasonableness review beginning with single risk pool rate filings submitted by issuers for plan or policy years beginning on or after January 1, 2019.

The Rate Filing Justification consists of three parts. All issuers must continue to submit a Uniform Rate Review Template (URRT) (Part I of the Rate Filing Justification) for all single risk pool plans. Issuers that submit a rate filing that includes a plan that meets or exceeds the threshold must include a written description justifying the rate increase, also known as the consumer justification narrative (Part II of the Rate Filing Justification). We note that the

threshold set by CMS constitutes a minimum standard and most states currently employ stricter rate review standards and may continue to do so. Issuers offering a QHP or any single risk pool submission containing a rate increase of any size must continue to submit an actuarial memorandum (Part III of the Rate Filing Justification). *Form Number:* CMS-10379 (OMB control number: 0938-1141); *Frequency:* Annually; *Affected Public:* Private Sector; Businesses or other for-profits, Not-for-profit institutions; *Number of Respondents:* 589; *Total Annual Responses:* 2,363; *Total Annual Hours:* 20,240. (For policy questions regarding this collection contact Lisa Cuozzo at 410-786-1746.)

Dated: May 14, 2019

William N. Parham, III

Director, Paperwork Reduction Staff

Office of Strategic Operations and Regulatory Affairs

4120-01-U-P

[FR Doc. 2019-10349 Filed: 5/17/2019 8:45 am; Publication Date: 5/20/2019]